

**REMARKS**

Applicants thank the Examiner for the thorough consideration given the present application. Claims 1-4 are currently being prosecuted. The Examiner is respectfully requested to reconsider his rejections in view of the amendments and remarks as set forth below.

**Rejection under 35 U.S.C. § 102**

Claims 1-3 stand rejected under 35 U.S.C. § 102 as being anticipated by Kamiyama et al. (U.S. Patent 4,712,895). This rejection is respectfully traversed.

The Examiner states that Kamiyama et al. teaches a stand carrying two positioning markers where each can be seen by one eye of a user forming a light path between the eye and the positioning marker. Applicants submit that claim 1 is not anticipated by this reference. First, Applicants wish to point out that the Kamiyama et al. reference is for a completely different purpose than that of the present invention. The present invention is designed to cause the user to place himself in the proper position so that a retinal scan can be taken. This differs from the Kamiyama et al reference which is a medical instrument which examines the abnormality of the position of a patient's eyes and in particular heterophoria and strabismus. In the reference, the medical professional places the patient in front of the device in the correct position. If the patient can not see the flickering mark units 10, 12, the inspector can precisely examine the patient's eyes even if the eyes are incorrectly positioned. Thus, this apparatus is not designed to have the patient move into the correct position, but rather is used to measure the ocular position of the patient. Thus, the apparatus is not a positioning device.

In the present invention, the device is directed to a patient for moving using repositioning markers in the form of arrows which are seen by the user when his position is incorrect. This concept is not seen in Kamiyama.

Claim 1 has now been amended to add the limitation of the two repositioning markers. This refers to the arrows such as shown in Figs. 4 and 5. Thus, the user first sees a positioning

marker in the form of various lines to indicate the correct position. The repositioning markers have right and left arrows that tell the user which way to move if badly out of position. Applicants submit that Kamiyama et al. does not teach this concept of reposition markers at all. Accordingly, Applicants submit that claim 1 is allowable thereover.

Claims 2-4 depend from claim 1 and as such are also considered allowable. In addition, each of these claims recite other features that make them additionally allowable.

In particular, it is noted that claim 2 describes the prism as being part of the means for forming the light path. Since the light path is between one of the eyes of the user and the corresponding marker, the prism of the reference is not part of this means. Further, the surfaces of the prism do not face the positioning markers and are not used to reflect the marker toward the corresponding eye. Instead, the prism is used to reflect a view of the eye toward the camera 32. Accordingly, this claim is considered to be additionally allowable.

Further, claim 4 also defines over this rejection since the Examiner has not applied an anticipation rejection of this claim.

#### **Rejection under 35 U.S.C. § 103**

Claim 4 stands rejected under 35 U.S.C. § 103 as being obvious over Kamiyama et al. The Examiner feels that while Kamiyama fails to disclose the type of filter, it would have been obvious to one of ordinary skill in the art to use any suitable filter to achieve the result. Applicants submit that there is no motivation for one of ordinary skill in the art to convert the prism system used in Kamiyama with a system that utilizes polarizing filters. Further Applicants submit claim 4 is not obvious over this reference either.

#### **Conclusion**

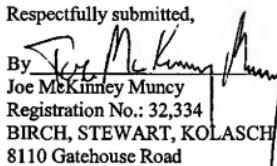
In view of the above remarks, it is believed that claims clearly distinguish over the patent relied on by the Examiner. In view of this, reconsideration of the rejection and allowance of all of the claims are respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned, at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

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